

H. M. HAYDEN
 vs.
 DAVID STEWART, JR.

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SEPTEMBER TERM, 1853.

[VENDOR'S LIEN—PETITION OF TRUSTEE TO RESELL PROPERTY.]

THE equitable lien held by the court for the payment of the purchase money of land sold under its decree, cannot be enforced by a trustee who has assigned the bonds given for its payment, whether the assignment was or was not made, with the sanction of the court.

The assignment of a bond given for the purchase money of land without recourse, extinguishes the vendor's lien, because so far as he is concerned, it amounts to a payment and satisfaction of his claim.

[The facts of this case are fully stated in the opinion of the Chancellor.]

THE CHANCELLOR:

This case is submitted on the petition of Frank H. Stockett, the trustee appointed in the place of Edwin P. Hayden, the original trustee, now deceased, and the answer thereto of James H. Watkins, of N., the purchaser of the property in the proceedings mentioned.

Upon the petition of Mr. Stockett, the new trustee filed on the 12th of September last, an order was passed on the 16th of the same month requiring Watkins, the purchaser, to show cause against the prayer thereof on this day, and notice having been served upon him as directed, he has filed an answer setting forth the grounds upon which he resists the application of the trustee.

The application is, that Watkins be required to pay the last instalment of the purchase money, or in default thereof that the land be resold by the new trustee for the purpose of raising the amount with interest. The petition states that at the sale made by the former trustee, Hayden, Watkins became the purchaser of the property for the sum of \$4351 20, one-third part thereof to be paid in cash, and the residue in two equal portions, in one and two years from the day of sale. That the